
Local Government & Housing Committee

HB 1379

Brief Description: Regarding moratoria and other interim official controls adopted under the shoreline management act.

Sponsors: Representatives Seaquist, Angel and Lias.

Brief Summary of Bill

- Specifies that local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement the Shoreline Management Act (SMA).
- Establishes public hearing, notification, and other requirements that must be met by local governments choosing to adopt moratoria or interim controls.
- Specifies that moratoria or interim controls may be effective for up to six months, but allows the local government to renew the moratoria if delineated requirements are met.

Hearing Date: 2/2/09

Staff: Ethan Moreno (786-7386)

Background:

Shoreline Management Act.

The Shoreline Management Act (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment and creates preference criteria listed in prioritized order that must be used by state and local governments in regulating shoreline uses.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in local shoreline master programs (master

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programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce master programs within their jurisdictions. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE), and the programs, and segments of or amendments to, become effective when approved by the DOE.

Supreme Court Action.

On October 11, 2007, the Washington Supreme Court ruled in *Ray Biggers, et. al., v. City of Bainbridge Island*, 2007 Wash. LEXIS 784, that Bainbridge Island exceeded its authority in adopting rolling moratoria for shoreline development. The four justices comprising the lead opinion expressed that the city's actions failed, in part, because the SMA does not include an express provision authorizing jurisdictions to adopt moratoria. Concurring in result with the lead opinion, a fifth justice concluded that the city had proper authority to adopt moratoria, but that the imposition of rolling moratoria was unreasonable and in excess of its lawful power.

Summary of Bill:

Local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement the SMA. A local government adopting a moratorium or control under this authority must satisfy timely public hearing requirements, adopt detailed findings of fact, and notify the DOE of the moratorium or control.

A moratorium or control under the SMA may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. Moratoria and controls may be renewed for one or more six-month period if the local government satisfies public hearing, fact finding, and notification requirements before each renewal.

Specified moratoria and interim official control provisions may not be construed to modify county and city moratoria powers conferred outside the SMA.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.